

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
TYLER DIVISION**

JOHN T FURLOW,

Plaintiff,

v.

**JOEL BAKER, DENNIS MATHEWS,
SMITH COUNTY TEXAS, CITY OF
TYLER, TEXAS,**

Defendants.

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CIVIL ACTION NO. 6:18-CV-00127-RWS

ORDER

On April 16, 2018, Defendant Smith County, Texas (“Smith County”) filed its first motion to dismiss this case. (Doc. No. 14.) Thereafter, on April 30, 2018, Plaintiff filed an amended complaint (Doc. No. 16), and the Court therefore denied Smith County’s initial motion as moot, ordering a responsive pleading to be directed to the live amended complaint (Doc. No. 18). On May 14, 2018, Smith County re-filed its motion to dismiss for failure to state a claim pursuant to Federal Rule of Civil Procedure 12(b)(6). (Doc. No. 20.) No timely opposition has been filed by Plaintiff.¹

Local Rule CV-7(e) provides that “[a] party opposing a motion has fourteen days (twenty-one days for summary judgment motions) from the date the motion was served in which to file a response...” L.R. CV-7(e). As the Motion was served on May 14, 2018 via CM/ECF (Doc. No. 20), more than fourteen days have passed without a response filed in opposition or a

¹ The Court notes that Plaintiff’s counsel has previously failed to timely meet and confer as to whether Defendants The City of Tyler, Texas and Dennis Matthews’s Motion to Continue (Doc. No. 22) was opposed. The Court had to issue an order requesting a response. (Doc. No. 23.) Any future failure to respond may result in immediate action by the court.

request for extension. “A party’s failure to oppose a motion in the manner prescribed herein creates a presumption that the party does not controvert the facts set out by movant and has no evidence to offer in opposition to the motion.” L.R. CV-7(d). Accordingly, Plaintiff has **7 days** from the issuance of this Order to show cause as to why Defendant’s Motion should not be treated as unopposed and therefore granted, dismissing the allegations against Smith County with prejudice.

So ORDERED and SIGNED this 30th day of May, 2018.



JOHN D. LOVE
UNITED STATES MAGISTRATE JUDGE